



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2022-0253; FRL-9611-01-R9]

Air Plan Approval; California; San Diego County; Reasonably Available Control

Technology

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the San Diego Air Pollution Control District (SDAPCD or “District”) portion of the California State Implementation Plan (SIP). These revisions concern SDAPCD’s negative declarations for certain Control Techniques Guidelines (CTGs) as they apply to the 2008 and 2015 ozone national ambient air quality standards (NAAQS or “standards”) reasonably available control technology (RACT) SIP. We are taking comments on this proposal and plan to follow with a final action.

DATES: Comments must be received on or before [Insert date 30 days after date of publication in the *Federal Register*].

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R09-OAR-2022-0253 at <https://www.regulations.gov>. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the

primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>. If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Doris Lo, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 972-3959 or by email at lo.doris@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us,” and “our” refer to the EPA.

Table of Contents

I. The State’s Submittal

- A. What document did the State submit?
- B. Are there other versions of this document?
- C. What is the purpose of the negative declarations?

II. The EPA’s Evaluation and Action

- A. How is the EPA evaluating the negative declarations?
- B. Do the negative declarations meet the evaluation criteria?
- C. Public Comment And Proposed Action

III. Statutory and Executive Order Reviews

I. The State’s Submittal

A. What document did the State submit?

Table 1 lists the negative declarations addressed by this proposal, with the date that they were adopted by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1 - SUBMITTED DOCUMENT¹

¹ The EPA is only acting on the negative declarations for the Control Techniques Guidelines (CTGs) for Synthesized Pharmaceutical Products, Fiberglass Boat Manufacturing Materials, and Miscellaneous Metal and Plastic Products, Tables 3-6. The EPA will propose separate action on the remainder of the 2020 SDAPCD RACT

Local Agency	Document	Adopted	Submitted
SDAPCD	<p>“2020 Reasonably Available Control Technology Demonstration for the National Ambient Air Quality Standards For Ozone in San Diego County, October 2020 (2020 RACT SIP) – Negative Declarations for the 2008 and 2015 NAAQS:</p> <p><i>Control of Volatile Organic Emissions from Manufacture of Synthesized Pharmaceutical Products</i> (EPA-450/2-78-029).</p> <p><i>Control Techniques Guidelines for Fiberglass Boat Manufacturing Materials</i> (EPA-453/R-08-004).</p> <p><i>Control of Volatile Organic Emissions from Miscellaneous Metal and Plastic Parts Coatings</i> (EPA-453/R-08-003); Table 3—Plastic Parts and Products, Table 4—Automotive/Transportation and Business Machine Plastic Parts, Table 5—Pleasure Craft Surface Coating, Table 6—Motor Vehicle Materials.</p>	10/14/2020	12/29/2020

On June 29, 2021, the submittal of the SDAPCD 2020 RACT SIP, with the exception of the negative declaration for the CTG for the Oil and Natural Gas Industry (EPA-453/B-16-001, 2016/10), was deemed by operation of law to meet the completeness criteria in 40 CFR part 51 Appendix V, which must be met before formal EPA review.²

B. Are there other versions of this document?

There are no previous versions of the negative declarations listed in Table 1 in the SDAPCD portion of the California SIP for the 2008 or 2015 ozone NAAQS.

SIP submittal at a future date.

² On May 6, 2021, in a letter from Elizabeth J. Adams, EPA to Richard Corey, CARB, the EPA determined that the following element was deemed complete: Negative Declaration for Control Techniques Guidelines for the Oil and Natural Gas Industry (EPA-453/B-16-001, 2016/10).

C. What is the purpose of the negative declarations?

Emissions of volatile organic compounds (VOCs) and oxides of nitrogen (NO_x) contribute to the production of ground-level ozone, smog, and particulate matter (PM), which harm human health and the environment. Section 110(a) of the Clean Air Act (CAA) requires states to submit regulations that control VOC and NO_x emissions. CAA section 182(b)(2) requires states to submit SIP revisions to implement reasonably available control technology (RACT) for, among other things, each category of VOC sources in the nonattainment areas covered by Control Technique Guidelines (CTGs). SDAPCD is subject to this requirement as it regulates the San Diego County 2008 and 2015 ozone nonattainment areas (NAAs) classified as “Severe.”³ In lieu of adopting local regulations to implement a CTG, air agencies must adopt a negative declaration if the nonattainment area has no sources covered by a CTG.⁴ SDAPCD's submittal of negative declarations is the District’s certification that there are no sources covered by the CTGs.

On December 3, 2020 (85 FR 77996), the EPA partially approved and partially disapproved SDAPCD's RACT demonstrations for the 2008 8-hr ozone national ambient air quality standards (NAAQS) (also referred to as the “2016 RACT SIP”).⁵ Specifically, the EPA found that certain CTG categories were not addressed by either a negative declaration or a RACT rule.

II. The EPA’s Evaluation and Action

A. How is the EPA evaluating the negative declarations?

Generally, CAA section 110(a)(2)(A) requires SIPs to “include enforceable emission limitations and other control measures, means, or techniques . . . as may be necessary or

³ 86 FR 29522 (June 2, 2021) “Designation of Areas for Air Quality Planning Purposes; California; San Diego County Ozone Nonattainment Area; Reclassification to Severe.” Section 182 applies to ozone nonattainment areas classified as Moderate and above.

⁴ Memorandum from William T. Harnett to Regional Air Division Directors, dated May 18, 2006, “RACT Qs & As – Reasonably Available Control Technology (RACT) Questions and Answers.”

⁵ The nonattainment area was classified as “Moderate” when the 2016 RACT SIP was submitted.

appropriate to meet the applicable requirements of [the CAA],” and SIPs must be consistent with the requirements of CAA sections 110(l) and 193. SIPs must also require RACT for each category of sources covered by a CTG document and each major source in ozone nonattainment areas classified as Moderate or above (see CAA sections 182(b)(2) and (f)).

States should also submit, for SIP approval, negative declarations for those source categories for which they have not adopted CTG-based regulations (because they have no sources above the CTG-recommended applicability threshold), regardless of whether such negative declarations were made for an earlier SIP.⁶ To do so, the submittal should provide reasonable assurance that no sources subject to the CTG requirements currently exist in the portion of the ozone nonattainment area that is regulated by the SDAPCD.

Guidance and policy documents that we use to evaluate CAA section 182 RACT requirements include the following:

1. “State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,” 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).
2. EPA Office of Air Quality Planning and Standards, “Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations,” May 25, 1988 (“the Bluebook,” revised January 11, 1990).
3. EPA Region IX, “Guidance Document for Correcting Common VOC & Other Rule Deficiencies,” August 21, 2001 (“the Little Bluebook”).
4. “State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule,” (the NO_x Supplement), 57 FR 55620, (November 25, 1992).

⁶ 57 FR 13498, 13512 (April 16, 1992).

5. Memorandum dated May 18, 2006, from William T. Harnett, Director, Air Quality Policy Division, to Regional Air Division Directors, Subject: “RACT Qs & As—Reasonably Available Control Technology (RACT): Questions and Answers.”

6. “Final Rule to Implement the 8-hour Ozone National Ambient Air Quality Standard—Phase 2,” 70 FR 71612 (November 29, 2005).

7. “Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements,” 80 FR 12264 (March 6, 2015).

8. “Implementation of the 2015 National Ambient Air Quality Standards for Ozone: Nonattainment Area State Implementation Plan Requirements,” 83 FR 62998 (December 6, 2018).

B. Do the negative declarations meet the evaluation criteria?

The submittal contains the District’s certification that there are no sources within the 2008 or 2015 ozone nonattainment areas under District jurisdiction that are subject to the CTGs listed in Table 1. The District based its certifications on reviews of permit files and emission inventories. We accessed CARB databases and performed internet searches and did not find indications that any sources exist for which the CTGs would apply.

The EPA's technical support document (TSD) for this action has more information about the District's submittal and the EPA's evaluation thereof.

C. Public Comment And Proposed Action

We propose to approve the negative declarations listed in Table 1, as submitted by CARB on December 29, 2020. We also propose that these negative declarations remedy the deficiencies for the following CTGs identified in our partial disapproval of the 2016 RACT SIP: *Control of Volatile Organic Emissions from Manufacture of Synthesized Pharmaceutical Products* (EPA–450/2–78–029); *Control Techniques Guidelines for Fiberglass Boat Manufacturing Materials* (EPA–453/R–08–004); and *Control of Volatile Organic Emissions from Miscellaneous Metal and Plastic Parts Coatings* (EPA–453/R–08–003); Table 3—Plastic Parts and Products, Table

4—Automotive/Transportation and Business Machine Plastic Parts, Table 5—Pleasure Craft Surface Coating, Table 6—Motor Vehicle Materials. We will accept comments from the public on the proposed approval for the next 30 days.

III. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

AUTHORITY: 42 U.S.C. 7401 *et seq.*

Dated: **April 7, 2022.**

Martha Guzman Aceves,
Regional Administrator,
Region IX.